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10/586,513	07/18/2006	Arnold Olesch	AFILM-203	4610
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FULBRIGHT & JAWORSKI, LLP			EXAMINER	
666 FIFTH AVE			LEE, JOHN R	
NEW YORK, NY 10103-3198				
			ART UNIT	PAPER NUMBER
			2878	
			MAIL DATE	DELIVERY MODE
			11/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/586,513

Applicant(s)

OLESCH ET AL.

Examiner

John R. Lee

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07/18/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date 07/18/2006, 04/17/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 1 and 3 are objected to because of the following informalities: In claim 1, lines 7-8, "the shading" lacks a proper antecedence. In claim 3, in line 3, "the vertical region", and, in line 4, "the smallest" each lack lacks a proper antecedence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "especially for" in line 2 renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Claims 2-6 are indefinite by virtue of their dependency upon claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. (US 6,683,695 B1) in view of Mouchart (US 3,566,135 A).

Regarding claim 1, Simpson et al. (US 6,683,695 B1) teach an installation for processing plate-shaped substrates (12), especially for coating panes of glass (see col. 1, lines 19-45), comprising a transport path (11) on which the substrates to be processed are successively fed to a processing station. Simpson et al. further teach that various sensors can be incorporated into the apparatus (col. 6, lines 43-49).

However, Simpson et al. fail to teach a light barrier over the transport path in order to be able to control the flow of the substrates, wherein the light barrier comprises an emitter which emits a light beam over the transport path to a receiver connected to an electronic evaluation device, which is installed such that, as a result of the shading of the receiver by the substrates guided over the transport path, it generates a switching signal which indicates the presence of a substrate in the light beam, wherein the receiver has a plurality of light-sensitive cells arranged one above the other, wherein the evaluation circuit is set up such that the switching signal is emitted when more than a certain minimum number of cells is shaded.

Mouchart (US 3,566,135 A) teaches a height sensor for objects having a light barrier (see fig. 1) over the transport path (32) in order to be able to control the flow (see col. 1, lines 6-12) of the objects (31), wherein the light barrier comprises an emitter (10) which emits a light beam over the transport path to a receiver (40) connected to an electronic evaluation device (50), which is installed such that, as a result of the shading of the receiver by the substrates guided over the transport path, it generates a switching signal which indicates the presence of a substrate in the light beam, wherein the receiver has a plurality of light-sensitive cells (41) arranged one above the other (see fig. 3), wherein the evaluation circuit (50) is set up such that the switching signal (e.g., the logic circuit activating gates in col. 2, lines 1-3) is emitted when more than a certain minimum number of cells is shaded (by the threshold member in col. 2, line 4).

One of ordinary skill in the art would add the sensor of Mouchart to the processing apparatus of Simpson et al. because this would add additional sensing

capacity, which Simpson et al. suggests is desirable (col. 6, lines 43-49), to the plate glass processing apparatus.

Regarding claim 2, the lens 21 and photodetectors 41 in fig. 3 of Mouchart form a "detection region. The light sensitive regions of these cells are all within this detection region, and so Simpson et al. fig. 3 shows that "a part of the cells forms a detection region and that the switching signal is emitted when more than a certain minimum number of cells is shaded in the detection region.

Regarding claim 3, while Mouchart does do not mention what the threshold value would be, one of ordinary skill in the art applying the device of Mouchart to the glass plate processing apparatus of Simpson et al. would have the minimum number of cells (41), the shading of which triggers a switching signal, determined such that the vertical region covered thereby is smaller than the smallest substrate height to be processed by the installation so that all the contemplated glass plates could be sensed by the sensor. This is a mere calibration of a sensor for the range of expected measured values, which is an old process obvious to one of ordinary skill in the art in setting up a measurement apparatus.

Regarding claims 4-6, the switching signal of Mouchart "contains the number of shaded cells" by virtue of the fact that the value of the inputs to the logic circuit 50 depend on the number of shaded photodetectors 41. This is indicated by Mouchart in col. 1, lines 74-75). Also, in one embodiment, Mouchart teaches using a counter 52 to determine the "number of ... cut beams" (col. 2, liens 57-62), which is the same as the number of shaded cells.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art made of record teaches various light barrier devices of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Lee whose telephone number is (571) 272-2477. The examiner can normally be reached on Monday through Friday, 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/John R. Lee/
Primary Examiner, Art Unit 2878